**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(224) **CWP No. 34323 of 2019
Date of Decision : 25.09.2023**

Kamla Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ankit Saini, Advocate for
Ms. Sheenu Sura, Advocate for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Mr. Swati Dalayan, Advocate for respondent No. 4.

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<u>Harsimran Singh Sethi J. (Oral)</u>

1. In the present petition, the challenge is to the order dated 03.10.2019 (Annexure P-10) by which the claim of the petitioner for the grant of interest has been declined.

2. Certain facts needs to be mentioned herein for correct appreciation of the issue in hand.

3. The husband of the petitioner, namely, Shri Jeet Bahadur was working as a Cook in Police Mess, Rohtak and he served the department for a period of 27 years starting from 01.02.1978 till he retired on 31.01.2005. After Shri Jeet Bahadur retired, he was granted pension and retiral benefits. Unfortunately, Shri Jeet Bahadur died on

03.02.2008. The petitioner, who is a legally wedded wife of Shri Jeet Bahadur, approached the respondents for release of the family pension in her favour but the same was not released to her by the respondents and ultimately, the petitioner filed a writ petition being CWP No. 5433 of 2017 titled as ***Kamla Devi Vs. State of Haryana and others,*** which petition was disposed of by this Court directing the respondents to pass an appropriate order with regard to the claim of the petitioner for the grant of family pension after the death of her husband, namely, Shri Jeet Bahadur. Ultimately, the respondents passed an order on 08.09.2017 granting the benefit of family pension in favour of the petitioner along with arrears. The benefit of family pension has been granted to the petitioner from the date of death of her husband. As the benefits were released to the petitioner in the year 2017 though, the same were required to be released in the year 2008, the petitioner claimed the benefit of interest on the arrears paid to her, which benefit has been declined by the respondents by the impugned order dated 03.10.2019 (Annexure P-10). The said order is under challenge in the present petition.

4. Learned counsel for the petitioner argues that once the petitioner was the legally wedded wife of Shri Jeet Bahadur, she was entitled for the family pension immediately after the death of Shri Jeet Bahadur in the year 2008 but the same was only granted to her after a period of 09 years i.e. in the 2017, hence, the grant of arrears should also include the interest as the respondents have retained the amount with them and used.

5. Upon notice of motion, the respondents have filed the reply and in the reply, the respondents have not disputed the said fact. The only reason given for not granting the interest is that after the death of Jeet Bahadur, the respondents were enquiring about the fact whether, the petitioner is the legally wedded wife of Jeet Bahadur or not, hence, the department was well within its right to withhold the family pension till the claim of the petitioner is established, hence, the claim of the petitioner for the grant of interest has rightly been declined.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. Keeping in view the fact that the respondents themselves have allowed the benefit of family pension in favour of the petitioner from the due date i.e. 04.02.2008 onwards and have also released the arrears, it is clear that the petitioner was entitled for the said benefit from the day one after the death of her husband. The respondents took their own time i.e. a period of 09 years to verify the fact whether, the petitioner is the legally wedded wife of Jeet Bahadur or not. Once, the petitioner was not at fault and the respondents took exceptionally long time to ascertain the fact whether the petitioner is the legally wedded wife of Jeet Bahadur or not, the petitioner cannot be blamed for the same. It is a clear cut case where, the petitioner has been caused prejudice.

8. Further, as per the settled principle of law settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** the petitioner becomes entitled for the interest on the

delayed release of the pensionary benefits. The relevant paragraph of said judgment is as under:-

> *"Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months front the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement."*

9. Apart from this, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355***, had held that an employee will be entitled for the interest on an amount which has been retained and used by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** is as under: -

> *"The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even*

if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."

10. Keeping in view the above, the claim of the petitioner is covered by the above said settled principles of law, hence, respondents are directed to grant the interest @ 6% per annum on the arrears from the date petitioner became entitled for the family pension till the date on which the arrears were released to her. Let the order be complied with within a period of two months from the receipt of copy of this order.

11. Petition is allowed in above terms.

September 25, 2023 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No